DowLohnes

October 26, 2007

VIA ELECTRONIC FILING

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notification of Ex Parte Communication
MB Docket Nos. 06-121 and 02-277
MM Docket Nos. 01-235, 01-317, and 00-244

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that on October 25, 2007, on behalf of Media General, Inc. ("Media General"), I spoke by telephone with Amy Blankenship, Legal Advisor to Commissioner Deborah Taylor Tate, to discuss the positions Media General has previously taken in the above-referenced dockets, the extensive evidence in the record that supports repeal of the newspaper/broadcast cross-ownership rule in small- and medium-sized markets, and reasons why repeal would benefit small- and medium-sized markets. The attached excerpt from Media General's October 23, 2006 comments was provided.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, one electronic copy of this letter is being submitted for each above-referenced docket.

Very truly yours,

M. Anne Swanson

Enclosure
cc w/encl. (by email):
Amy Blankenship, Esquire

VII. Repeal of the 1975 Rule Is Required for All Markets, Regardless of Size.

Retention of the 1975 Rule cannot be sustained under any factual or legal rationale. Similarly, retention of a modified newspaper/broadcast cross-ownership rule that is discriminatorily applicable to medium and small markets would be equally indefensible. There are at least seven reasons why across-the-board repeal of the rule is the only sustainable approach.

First, any newspaper/broadcast cross-ownership rule discriminating against smaller markets would be legally improper given that *vacatur* of the cable television/television cross-ownership rule has applied in all markets.[259] When it ordered *vacatur* of that rule, the court in *Fox I* did not suggest any need to retain it in smaller markets. Neither did the Commission ever mention such a concept when it sought rehearing of *Fox I*, and the agency has allowed the rule to disappear nationwide. If there is no reason to follow a discriminatory market approach in repealing cross-ownership of broadcast television and cable television, two platforms the FCC does regulate, there is even less reason to do so for combinations of television stations and newspapers, which are otherwise unregulated by the FCC.

Second, there is no factual basis for a rule discriminating against smaller markets. In the empirical studies related to programming produced by newspaper-owned television stations, market size had no effect on the conclusions. The Lichter Study measuring non-entertainment programming, which Media General submitted in 2001 and has updated for this docket, found that, in comparing stations in markets with co-ownership and those without, stations in the three smallest Media General convergence markets still aired more non-entertainment programming than stations in the immediately higher-ranked DMAs. Indeed, the programming study that the

[259] *Fox I*, 280 F.3d 1027, *rehearing denied*, *Fox II*, 293 F.3d 537.

FCC staff itself undertook in 1973 in the proceeding that led to the *1975 Second Report and Order* included television stations from variously sized markets. As it noted, stations in the seven largest markets were specifically excluded from the study, which found that, on average, television stations owned by newspapers offered more news, non-entertainment, and overall local programming than other television stations.[260]

Third, small markets have been equally affected by the dramatic growth in the number of "traditional" media outlets and more recent new technological entrants over the last 30 years. Media General's market-by-market review of the availability of content providers in its six convergence markets shows this profusion to be universal.[261]

Fourth, the empirical studies before the FCC that relate specifically to advertising competition show no reason to discriminate against small market stations in repealing the 1975 Rule. Most significantly, the FCC has found broadcast advertising and newspaper advertising represent different product markets. Geographic location is, therefore, rendered meaningless in standard antitrust analysis. Moreover, comprehensive studies of advertising rates prepared by Economists Incorporated in 1998 and updated in 2002 drew on data from large and small markets across the country; market size made no difference in the findings; they found no statistically significant difference between advertising prices of cross-owned newspapers and those of other papers in medium and small markets.[262]

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[260] Appendix C, *1975 Second Report and Order*, 50 FCC 2d at 1095 n.4.

[261] Appendices 9-14.

[262] Economists Incorporated, "Behavioral Analysis of Newspaper-Broadcast Cross-Ownership Rules in Medium and Small Markets," January 2002, submitted with Reply Comments of Media General, Inc. in MM Docket Nos. 01-235, *et al.* (Feb. 15, 2002); Economists Incorporated, "Structural and Behavioral Analysis of the Newspaper-Broadcast Cross-Ownership Rule," July 1998, submitted with the Comments of the Newspaper Assoc. of America in MM Docket No. 98-38 (July 21, 1998).

Fifth, good journalism is expensive to produce no matter what the market size. Cutbacks in local television newscasts have been particularly pronounced in small and medium size markets. Indeed, cutbacks in network compensation have been particularly deep and hard for affiliates in smaller markets.[263]

Sixth, local media -- again, particularly those in small markets -- face increasing competition from national players who, given the development of technologies over the last 30 years, can now easily send, beam, or transmit their content and advertising into every market in the nation. The national players siphon off advertising dollars that may otherwise have gone to the communities receiving their material, and they generally have no local presence or commitment. These national players frequently prosper by creating large numbers of specialized video channels or websites, each of which serves a small dispersed audience in each locale, but collectively aggregate many viewers and users. At the same time, the local newspaper, and increasingly the local broadcast station, each of which is dedicated to covering the local community, are facing growing costs of local news operations and increasingly fragmented audiences. To survive in the new environment of "competition for eyeballs," local content providers must be allowed to move beyond traditional structural ownership regulations and the confines of traditional media boundaries to reach audiences the way they want to be reached -- with multiple streams of information when, where, and how the audiences demand it.

Finally, there is no reason in anything previously put before the Commission nor is there any reason in common sense to deny small market media operators and consumers the same

[263] Dan Trigohoff, "The News Not Out of Topeka: KTKA-TV Latest to Drop Local News; Lower Comp from ABC Cited Among the Reasons," *Broadcasting and Cable*, April 22, 2002; Dan Trigohoff, "Station Break," *Broadcasting and Cable*, Jan. 21, 2002; Steve McClellan, "Small Town, Big Problems: Financial Problems for Small Market Television Stations," *Broadcasting and Cable*, Aug. 6, 2001.

innovation and benefits that flow from convergence and that are available to their counterparts in larger markets. If anything, the costs and difficulties faced by small market operators make such change even more deserved and compelling. Similarly, consumers in these markets are entitled to access to as much local information as operators in their markets can possibly produce, just as is the case in larger markets. Media General's experience in medium and small markets, as described above and documented today and in the past for the FCC, demonstrates the myriad public interest benefits that can redound to consumers in such markets through convergence. From increased coverage of elections and political events to greater and more in-depth focus on community issues to the highlighting of local weather and sports developments to the conduct of new community-centered events, convergence yields tangible improvements in the public interest.

Nothing in the record shows that any action short of total elimination of any vestige of the 1975 Rule would be judicially sustainable or in the public interest. That action is long overdue.